

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

TERRENCE ZEHRER,

Plaintiff,

v.

HARBOR CAPITAL ADVISORS, INC.,

Defendant.

Case No.: 14-cv-00789

Hon. Joan Humphrey Lefkow

RUTH TUMPOWSKY,

Plaintiff,

v.

HARBOR CAPITAL ADVISORS, INC.,

Defendant.

Case No.: 14-cv-07210

CONSOLIDATED

**AGREED ORDER REGARDING PROSPECTIVE DAMAGE CLAIMS**

WHEREAS, on February 4, 2014, plaintiff Terrence Zehrer filed a complaint (the “Zehrer Action”) against defendant Harbor Capital Advisors, Inc. (“HCA”) asserting a claim pursuant to Section 36(b) of the Investment Company Act of 1940, 15 U.S.C. §80a-35(b) (“Section 36(b)”) pertaining to advisory fees paid to HCA by the Harbor International Fund (the “International Fund”);

WHEREAS, on September 16, 2014, plaintiff Ruth Tumpowsky filed a complaint (the “Tumpowsky Action”) against HCA asserting claims pursuant to Section 36(b) pertaining to

advisory fees paid to HCA by the International Fund and the Harbor High-Yield Bond Fund (the “High-Yield Bond Fund”);

WHEREAS, the Court entered an order of consolidation in this action on November 20, 2014 (the “Consolidation Order”) directing the consolidation of the Tumpowsky Action and the Zehrer Action for all purposes (the “Consolidated Action”);

WHEREAS, in accordance with the Consolidation Order, Plaintiffs filed a Consolidated Amended Complaint on December 22, 2014;

WHEREAS, Section 36(b)(3) provides, in relevant part, that “[n]o award of damages shall be recoverable for any period prior to one year before the action was instituted”; and

WHEREAS, the parties desire to avoid the necessity of resolving at this time the issue of whether Plaintiffs may seek to recover damages for any period after the Plaintiffs filed their respective complaints, and the related issue of whether Plaintiffs are required to file so-called “anniversary” complaints in order to preserve any claims Plaintiffs may have to seek to recover any such damages;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the parties in the Consolidated Action through their undersigned counsel, and subject to the Court’s approval, that:

1. Plaintiffs shall not be required to file a new complaint or complaints in order to preserve any claims Plaintiffs may have to seek to recover damages for advisory fees paid to HCA by the International Fund and the High-Yield Bond Fund after the Plaintiffs filed their respective complaints.

2. This Stipulation shall not be deemed a waiver of any claims or defenses any party may have in this action.

Dated:

9/23/2015

ENTER:

  
HONORABLE JOAN HUMPHREY LEFKOW

AGREED:

Dated: September 16, 2015

By: /s/ Jenny L. Dixon  
Stephen J. Oddo  
Jenny L. Dixon  
Edward B. Gerard  
ROBBINS ARROYO, LLP  
600 B St #1900  
San Diego, CA 92101  
(619) 525-3990  
E-mail: [sodd@robbinsarroyo.com](mailto:sodd@robbinsarroyo.com)  
[jdixon@robbinsarroyo.com](mailto:jdixon@robbinsarroyo.com)  
[egerard@robbinsarroyo.com](mailto:egerard@robbinsarroyo.com)

Dated: September 16, 2015

By: /s/ Molly K. McGinley  
John W. Rotunno  
Stephen J. O'Neil  
Paul J. Walsen  
Clifford C. Histed  
Molly K. McGinley  
Nicole C. Mueller  
K&L GATES LLP  
70 West Madison Street, Suite 3100  
Chicago, Illinois 60602-4207  
Telephone: 312.372.1121  
E-mail: [john.rotunno@klgates.com](mailto:john.rotunno@klgates.com)  
[stephen.oneil@klgates.com](mailto:stephen.oneil@klgates.com)  
[paul.walsen@klgates.com](mailto:paul.walsen@klgates.com)  
[clifford.histed@klgates.com](mailto:clifford.histed@klgates.com)  
[molly.mcginley@klgates.com](mailto:molly.mcginley@klgates.com)  
[nicole.mueller@klgates.com](mailto:nicole.mueller@klgates.com)

*Attorneys for Harbor Capital Advisors, Inc.*

Norman Rifkind  
LAW OFFICES OF NORMAN RIFKIND  
100 E. Huron Street, #1306  
Chicago, IL 60611  
(847) 372-4747  
E-mail: [Norman@RIFSLAW.com](mailto:Norman@RIFSLAW.com)

Robin F. Zwerling  
Jeffrey C. Zwerling  
Susan Salvetti  
Andrew W. Robertson  
ZWERLING, SCHACHTER &  
ZWERLING, LLP  
41 Madison Avenue  
New York, New York 10010  
(212) 223-3900  
E-mail: rzwerling@zsz.com  
jzwerling@zsz.com  
ssalvetti@zsz.com  
arobertson@zsz.com

Robert L. Lakind  
Arnold C. Lakind  
Daniel S. Sweetser  
SZAFERMAN, LAKIND,  
BLUMSTEIN & BLADER, P.C.  
101 Grovers Mill Road, Suite 200  
Lawrenceville, NJ 08648  
(609) 275-0400  
E-mail: rlakind@szaferman.com  
alakind@szaferman.com  
dsweetser@szaferman.com

*Counsel for Plaintiffs*